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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,691	11/11/2002	Sverker Alfredsson	07589.0060PC	2337
28694	7590	02/22/2006	EXAMINER	
NOVAK DRUCE & QUIGG, LLP 1300 EYE STREET NW 400 EAST TOWER WASHINGTON, DC 20005			LEWIS, TISHA D	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/065,691	ALFREDSSON, SVERKER	
	<b>Examiner</b>	<b>Art Unit</b>	
	TISHA D. LEWIS	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 and 10-20 is/are allowed.
- 6) ☒ Claim(s) 9 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.                                                             | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 29, 2005 has been entered.

### ***Response to Amendment***

Claims 1-13 and 15-21 are pending in the application. Claim 14 is cancelled.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-8 and 10-20 have been fully considered and are persuasive. The 102(b) and 103(a) rejections of claims 1-8 and 10-20 has been withdrawn.

Applicant's arguments with respect to claims 9 and 21 have been fully considered but they are not persuasive.

In response to applicant's argument that the criteria for establishing a prima facie case of obviousness is not present in the rejection: First, the suggestion or motivation is found in the knowledge generally available to one of ordinary skill in the art in which it is well known that having angled teeth for gearing instead of straight teeth reduces noise and vibration (see cited prior art in PTO-892 filed January 22, 2003, US 6,066,062 and US 4,440,042). Second, the expectation of success would arise if the teeth for the

gearing of Larsson were angled as the teeth gearing of Frost is which would not only reduce noise and vibration, but provide force as taught by Frost. Finally, the references combined do suggest all of the claimed limitations wherein Larsson discloses all the limitations except the angled teeth providing force in which Frost is used to provide that limitation to show that using angled teeth to provide force is already disclosed in the prior art.

In response to applicant's argument that the incorporation of the Frost arrangement into the Larsson arrangement would prevent functioning of Larsson, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference (combining the entire structure of Frost into Larsson is not suggested by office action); nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, being that Larsson discloses predominantly all the limitations of the claims 1-13 and 15-21 (with the exception of having angled teeth), the teaching of having a range gearbox using an axially shiftable ring gear is suggested and in combination with the teaching of Frost disclosing using angled teeth to assist in movement of a sun gear being suggested, the present invention can be imagined and produced just by those teachings alone.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, even though the gears used in Frost are different from the gears used in Larsson or the present invention, the reference does disclose the concept of having angled/helical teeth between the sun gear and pinion gear to assist in axial shifting of the sun gear which suggest that using angled teeth for axial shifting is well known in the art or at least already disclosed in a prior art reference.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, although applicant argued that the combination of Larsson in view of Frost would prevent functioning and has no suggestion to combine, applicant still seemed to provide more of an argumentative detail against Frost without addressing Larsson in combination therewith (seemed to be using the operation of Frost alone to overcome the rejection and compare what Frost is lacking according to the present invention). The arguments detailing particular sections of the Frost reference, detailing the operation of the reference and the alleged misinterpretation by the examiner argument has been fully and clearly understood and acknowledged, but these

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arguments do not overcome the disclosure in Frost of having angled teeth assisting in axial movement of a gear, regardless if the present invention and Frost have different shift modes (high or low or forward or reverse), the teeth of Frost still cause the gear to move in two positions.

The examiner suggest applicant amend claims 9 and 21 according to claims 1 and 10 with the entire limitation starting with "interacting tooth faces" and ending with "low range configuration of the range gearbox"

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson ('538) in view of Frost ('370). Larsson discloses a range gearbox (3) connected to the output of a basic gearbox including:

a planetary gear (7), enclosed in a housing (3), with a sun wheel (9) arranged (rigid, no axial movement) on an input shaft (5) and engaged with planet wheels (10) which are carried by a planet carrier (12) connected (rigid, no axial movement) to an output shaft (8) and engageable with an axially displaceable ring gear (14) which has a first position for being locked to the housing and a second position for connecting to the output shaft via the planet carrier (column 3, lines 28-48) wherein interacting teeth of the planetary gear engage to provide torque between the input and output shafts during

high and low range positions, but the teeth are not angled (helical) to provide axial force to assist shifting between the first and second positions.

Frost discloses a reversing mechanism having a planetary gear set (42) enclosed in a housing (14) with a sun wheel (44, 50) having a rotation in the clockwise direction via the input shaft (24) with teeth being directed to the right and a planet carrier (54) carrying a plurality of planet gears (46) wherein the sun wheel (44) is axially displaceable for providing a first position and a second position by force generated through helical teeth (114, 116) between the sun gear and pinion gear interacting to cause axial force to shift the sun gear during a range change (forward, neutral or reverse) (column 3, lines 1-25).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the gear teeth of Larsson with angled or helical teeth in view of Frost to reduce high level noise generated between the interacting teeth of the planetary gear during operation.

***Allowable Subject Matter***

Claims 1-8 and 10-20 are allowed.

**FACSIMILE TRANSMISSION**

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 872-9326 before final and 703-872-9327 after final**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission,

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see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
the Patent and Trademark Office (Fax No. (703) 000-0000) on \_\_\_\_\_ (Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-Thur 6 AM TO 2:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tdl  
February 16, 2006

  
TISHA LEWIS  
PRIMARY EXAMINER  
AU 3681 2/16/06